

**PART 734—GARNISHMENT OF PAY
OF NAVAL MILITARY AND CIVIL-
IAN PERSONNEL FOR COLLEC-
TION OF CHILD SUPPORT AND
ALIMONY**

Sec.

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AUTHORITY: 42 U.S.C. 659 (Social Security Act, sec. 459 added by Pub. L. 93-647, part B, sec. 101(a), 88 Stat. 2357, as amended by the Tax Reform and Simplification Act of 1977, Pub. L. 95-30, title V, sec. 502, 91 Stat. 157).

SOURCE: 44 FR 42193, July 19, 1979, unless otherwise noted.

§ 734.1 Purpose.

This part prescribes responsibilities and procedures applicable in the Department of the Navy when processing and honoring legal process brought for the enforcement of legal obligations to provide child support or make alimony payments under 42 U.S.C. 659 (Social Security Act, section 459 added by Pub. L. 93-647, part B, sec. 101(a), 88 Stat. 2357, as amended by the Tax Reform and Simplification Act of 1977, Pub. L. 95-30, title V, sec. 502, 91 Stat. 157).

§ 734.2 Scope.

The provisions of this part shall apply to legal process affecting any Federal pay administered by the Department of the Navy and due and payable to all categories of naval military or civilian personnel including personnel of Navy or Marine Corps non-appropriated-fund activities. This part is not applicable to legal process affecting entitlements administered by other agencies, such as civilian employees' retirement benefits administered by the Office of Personnel Management or compensation administered by the Veterans Administration.

[44 FR 42193, July 19, 1979, as amended at 47 FR 28371, June 30, 1982]

§ 734.3 Service of process.

(a) It is the policy of the Department of the Navy to respond promptly to legal process addressed to naval officials. Service of legal process affecting

the pay of Department of the Navy personnel shall be made on the following designated officials in the manner and in the circumstances specified below:

(1) *Navy members.* Process affecting the military pay of active duty, Reserve, Fleet Reserve, or retired Navy members, wherever serving or residing, may be served personally or by registered or certified mail, return receipt requested, on the Director, Navy Family Allowance Activity, Anthony J. Celebrezze Federal Building, Room 967, Cleveland, Ohio 44199.

(2) *Marine Corps members.* 42 U.S.C. 659 provides that pay of a servicemember, active duty or retired, shall be subject to legal process brought for the enforcement against such member of legal obligations to provide child support or alimony payments. "Legal process" means any writ, order, summons, or other similar process in the nature of garnishment. Upon receipt of such legal process, it will be forwarded directly to: Defense Finance and Accounting Service, Cleveland Center, Garnishment Operations Directorate (DFAS-CL/L), P.O. Box 998002, Cleveland, Ohio 44199-8002. The letter of transmittal will state the date of service and method by which service was made. Detailed instructions for disbursing officers and commanding officers are contained in DFAS-KC 7220.31-R, chapter 7.

(3) *Civilian Employees.* Process affecting the pay of active civilian employees of the Department of the Navy:

(i) If currently employed at Navy or Marine Corps activities (including non-appropriated-fund instrumentalities) or installations situated within the territorial jurisdiction of the issuing court, such process may be served personally, or by registered or certified mail, return receipt requested, on the commanding officer or head of such activity or installation, or principal assistant specifically designated in writing by such official.

(ii) In other cases involving civilian employees, such process may be served personally or by registered or certified mail, return receipt requested, in the manner indicated below:

(A) If pertaining to civil service personnel of the Navy or Marine Corps,

such process may be served on the Director of Civilian Personnel Law, Office of the General Counsel, Navy Department, Washington, DC 20390.

(B) If pertaining to non-civil service civilian personnel of Navy Exchanges or related nonappropriated-fund instrumentalities administered by the Navy Resale System Office, such process may be served on the Commanding Officer, Navy Resale System Office, Attention: Industrial Relations Officer, 29th Street and Third Avenue, Brooklyn, New York 11232.

(C) If pertaining to non-civil service civilian personnel of Navy clubs, messes, or recreational facilities (non-appropriated funds), such process may be served on the Chief of Naval Personnel, Director, Recreational Services Division (Pers/NMPC-72), Washington, DC 20370.

(D) If pertaining to non-civil service civilian personnel of other non-appropriated-fund instrumentalities which fall outside the purview of the Chief of Naval Personnel or the Commanding Officer, Navy Resale Systems Office, such as locally established morale, welfare, and other social and hobby clubs, such process may be served on the commanding officer of the activity concerned.

(E) If pertaining to non-civil service civilian personnel of any Marine Corps nonappropriated-fund instrumentalities, such process may be served on the commanding officer of the activity concerned.

(b) The Department of the Navy officials designated above are authorized to accept service of process within the purview of 42 U.S.C. 659 (Social Security Act, sec. 459 added by Pub. L. 93-647, part B, sec. 101(a), 88 Stat. 2357, as amended by the Tax Reform and Simplification Act of 1977, Pub. L. 95-30, title V, sec. 502, 91 Stat. 157). Where service of process is offered to an official not authorized to accept it under paragraph (a) of this section, the person offering such service shall be referred to the appropriate official designated in paragraph (a) of this section.

[44 FR 42193, July 19, 1979, as amended at 65 FR 62619, Oct. 19, 2000]

§ 734.4 Responsibilities.

(a) *Designated officials.* Within their respective areas of cognizance as set forth in § 734.3, the designated officials are responsible for the following functions with regard to legal process:

(1) Sending such notifications and directions to the member concerned and his or her commanding officer as may be required.

(2) Obtaining or providing an appropriate review by qualified legal counsel.

(3) Taking or directing actions, temporary and final, as are necessary to comply with 42 U.S.C. 659, as amended (see § 734.3(b)), the MCO 5800.16A, Marine Corps Manual for Legal Administration (LEGADMINMAN), Navy Comptroller Manual, and the court's order in the case, and

(4) Apprising the cognizant United States Attorney of the Department of the Navy's disposition, as required, and, in coordination with the Judge Advocate General, effecting liaison with the Department of Justice or United States Attorneys in instances of noncompliance with process or other circumstances requiring such action.

(b) *Command responsibility.* (1) The Commanding officer of the member or employee concerned shall, upon receipt of notification from the appropriate designated official, ensure that the member or employee has received written notification of the pendency of the action and that the member or employee is afforded counseling concerning his or her obligations in the matter, and legal assistance if applicable, in dealing with the legal action to affect his or her Federal pay. The commanding officer shall comply with the directions of the designated official in responding to the legal process.

(2) For the purposes of this part, the Director, Navy Family Allowance Activity, Cleveland, Ohio, will function as the commanding officer with regard to retired Navy military personnel and members of the Fleet Reserve.

(c) *Legal services.* The Judge Advocate General is responsible for the following functions pertaining to legal process within the purview of this part:

(1) Providing overall technical direction and guidance, as required, for all Department of the Navy military and

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civilian attorneys engaged in reviewing such process or advising on its disposition.

(2) Ensuring, as Director, Naval Legal Service, the availability of attorneys in Naval Legal Service Offices who are qualified to advise and assist the designated officials concerning the disposition of legal process, and

(3) Where required, ensuring effective liaison with the Department of Justice or United States Attorneys.

[44 FR 42193, July 19, 1979, as amended at 65 FR 62619, Oct. 19, 2000]

§ 734.5 Administrative procedures.

The designated officials specified in § 734.3, shall, in consultation with the Judge Advocate General and Commander, Navy Accounting and Finance Center or the Commandant of the Marine Corps (FD), as appropriate, establish procedures for effectively executing their assigned responsibilities. Implementing procedures shall conform with 42 U.S.C., 659, as amended, the MCO 5800.16A, Marine Corps Manual for Legal Administration (LEGADMINMAN), the Navy Comptroller Manual, and the Federal Personnel Manual.

[44 FR 42193, July 19, 1979, as amended at 65 FR 62619, Oct. 19, 2000]

PART 735—REPORTING BIRTHS AND DEATHS IN COOPERATION WITH OTHER AGENCIES

Sec.

735.1 Purpose.

735.2 Background.

735.3 Action.

AUTHORITY: 70A Stat. 278; 80 Stat. 379, 383; 5 U.S.C. 301, 552; and 10 U.S.C. 5031.

SOURCE: 51 FR 15321, Apr. 23, 1986, unless otherwise noted.

§ 735.1 Purpose.

To promulgate latest guidance on reporting births and deaths, including births to which part 138 of this title is applicable.

§ 735.2 Background.

For Armed Forces members and their dependents on duty overseas, registration of vital statistics with an appropriate foreign government may be a

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distinct advantage should documentary evidence, acceptable in all courts, be required at any future time. Department of Defense (DOD) policy is that military services will require their members to make official record of births, deaths, marriages, etc., with local civil authorities in whose jurisdiction such events occur.

§ 735.3 Action.

When a medical officer has knowledge of a birth or death occurring under the following conditions, he or she shall refer the matter to the commanding officer for assurance of compliance with DOD policy.

(a) *Births.* (1) In accordance with local health laws and regulations, the commanding officer of a naval hospital in the United States (U.S.) shall report to proper civil authorities all births, including stillbirths, occurring at the hospital. Medical officers on ships and aircraft operating within U.S. political boundaries, or at stations other than naval hospitals in the U.S., shall report all births occurring within their professional cognizance. It shall be the duty of the medical officer to determine the requirements of local civil authorities for these reports.

(2) When births occur on aircraft or ships operating beyond U.S. political boundaries, the medical officer responsible for delivery shall make a report to the commanding officer, master of the ship, or to the officer in command of any aircraft, in every case to be recorded in the ship or aircraft log. A report shall also be made to local civil authorities in the first port of entry if required by law and regulation of such authorities when births occur on a course inbound to the U.S. Additionally, the medical officer shall:

(i) Furnish the parents with appropriate certificates and shall, if the report is not accepted by the local registrar of vital statistics or other civil authority, or in any case in which local authority has indicated in writing that such a report will not be accepted,

(ii) Advise the parents to seek the advice of the nearest office of the U.S. Immigration and Naturalization Service (USINS), at the earliest practicable time. USINS offices are located in